

H.R. 3125 — The Internet Gambling Prohibition Act

Authored by Rep. Goodlatte (R-VA)

SUMMARY: The Internet Gambling Prohibition Act makes it unlawful to place, receive, or otherwise make a bet or wager using the Internet, except as follows:

- 1) Intrastate wagers on State lotteries pursuant to State law and provided the bet is placed on a closed-loop, subscriber-based service and that at the time of placing the bet, the person placing the bet is physically located at a facility open to the general public;
- 2) Any otherwise lawful wager on a State-regulated live horse or dog racing, or live jai alai conducted on a closed loop, subscriber-based system;
- 3) Any otherwise lawful wager made wholly intrastate that is expressly authorized by the State, provided the wager is placed on a closed-loop, subscriber-based service;
- 4) Any otherwise lawful wager placed on a closed-loop subscriber-based service that is received by a recognized Indian Tribe provided the game is permitted under the Indian Gaming Regulatory Act and provided the person making the wager is physically located on Indian lands.

The bill only applies to wagers made over the Internet and does not amend existing law, including the Wire Act.

COMMONLY ASKED QUESTIONS:

Does the bill expand gambling beyond what is permitted under current law? The bill does not alter existing law, so to the extent that current law prohibits some form of wagering (i.e. under the Wire Act), such actions would still be illegal after enactment of this bill. However, to the extent that this bill is needed because current law is either silent or inapplicable to wagering over the Internet, the bill prohibits all forms of wagering on the Internet except in the four specific areas outlined in the summary. In these four areas, under certain specified conditions, Internet gambling would be legal.

What does current law say about wagering on horse racing, dog racing, and jai alai? This is a matter of great dispute. For example, there is some dispute as to whether current law prohibits the use of the Internet for interstate wagering on horse racing. This bill would remain silent as to whether this is permissible, but would permit such wagering should that be the determination of a court or of the Justice Department. Talking points on this bill from Rep. Goodlatte's website indicate the level of uncertainty, "Under current federal law, it is unclear that using the Internet to operate a gambling business is illegal. The closest useful statute is the Wire Act which prohibits gambling over telephone

wires. However, because the Internet does not always travel over telephone wires, the Wire Act, which was written well before the invention of the World Wide Web, has become outdated -- it is not clear that it applies to the Internet at all. Furthermore, even if it does, it only applies to sports betting and not virtual casino games like blackjack and roulette.” If this is the case, under this bill, there might not exist any legal prohibition against some forms of Internet gambling on horse racing, dog racing, or jai alai.

The inclusion of specific “exceptions” may further add to the ambiguity over the current statutes. For example, it is generally agreed upon that using the telephone to place a wager on jai alai would be illegal under the Wire Act. Therefore, if the Wire Act applies to the Internet, under this bill it would not be possible to place a wager over the Internet on jai alai. Yet if this is the case, why does the bill contain a specific “if otherwise lawful” exemption for jai alai? It could be asserted that the Wire Act applies to the telephone, but not the Internet, in which case this bill would create a situation in which it is illegal to wager on jai alai from your phone, but perfectly legal to do so from your computer.

Does the bill permit individuals to gamble from home? Yes, in some instances. An individual would be able to use the Internet to place wagers from his home on live horse or dog racing, or live jai alai or on other solely intrastate gaming which has been expressly authorized by the State, provided that such wagers do not violate any other current law. The bill, does not however permit an individual to purchase a lottery ticket from his home (must be done from a place open to the general public) or to make a wager under the Indian Gaming Regulatory Act from his home (must be placed from Indian land).

Does the close-loop, subscriber-based requirements effectively prevent children from accessing any on-line gambling sites from home? While the bill requires an “effective customer verification and age verification system,” the Department of Justice testified that the conditions set in the bill could be met simply by receiving a free disk in the mail and loading it on the computer. The requirement in the bill that lottery sales be conducted from places of public access addresses this concern as it relates to lottery tickets.

How does the bill comport with the recommendations of the National Gambling Impact Study Commission?

RECOMMENDATION	BILL
“The Commission recommends ...that the federal government should prohibit, without allowing new exemptions or the expansion of existing federal exemptions..., Internet gambling not already authorized...” (<i>NGIS Report 5.1</i>)	The bill does not expand any exemptions in current law. However, to the extent that this bill is needed because current law is either silent or inapplicable to wagering over the Internet, the bill <u>prohibits all</u> forms of wagering on the Internet <u>except</u> in the four specific areas outlined in the summary.

<p>“The Commission recognizes that current technology is available that makes it possible for gambling to take place in the home or the office, without the participant physically going to a place to gamble. Because of the lack of sound research on the effects of these forms of gambling on the population and the difficulty of policing and regulating to prevent such things as participation by minors, the commission recommends that states not permit the expansion of gambling into homes through technology and the expansion of account wagering.” (<i>NGIS Report 5.3</i>)</p>	<p>The Commission recommended that “states not permit the expansion of gambling into the home.” This bill prohibits in-home wagering on all forms of gambling (including state lotteries) except that it leaves it to the States to prohibit the expansion of gambling in the home on horse racing, dog racing, jai alai, and other expressly authorized intrastate games (provided such bets conform with all other applicable federal laws).</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

What is the extent of on-line gambling? “Earlier this year, an FBI study reported growth from \$300 million in 1998 to \$651 million in 1999. More recently, Bear, Stearns & Co. Inc. reported that there were then at least 650 Internet gambling websites, and that total revenues for 1999 had been \$1.2 billion (an 80% increase from 1998) and would grow to \$3 billion by 2002. Other estimates indicate that it could soon easily become a \$10 billion a year industry. Several new gambling sites appear on the web every day.” (*Talking Points from Rep. Goodlatte’s website.*)

What is the extent of on-line wagering on horse racing, dog racing, and jai alai? While specific figures are not available, in 1998 account wagering, which includes wagering over the phone-line and through the Internet, constituted \$550 million or 3.7% of all horse racing wagers. At that time, account wagering was only available in eight of the 43 states in which horse racing is legal and only one U.S. company is presently broadcasting races through the Internet. (*National Gambling Impact Study Commission*)

The views expressed in this Policy Brief do not necessarily reflect the views of all Members of the Conservative Action Team.

The Conservative Action Team is a Congressional Member Organization of over 50 Republican House Members and is chaired by Representative John Shadegg (R-AZ).